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South Carolina House of Representatives



# Legislative Update

Robert J. Sheheen, Speaker of the House

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No. 5

## CONTENTS

House Week in Review.....2

Bills Introduced.....3

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## Legislative Update, February 15, 1994

### House Week in Review

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Reapportionment of the House of Representatives moved a step closer to reality this past week, when H. 4333, an act to reapportion these districts, was ratified. The act now goes to the governor for his signature. The House also approved H. 4535, a joint resolution to move the date of this year's state primary to August 9. The primary delay is being sought because of the ongoing reapportionment process. A House bill to redistrict the state's congressional districts, H. 4332, is still pending in the Senate Judiciary Committee.

The House also took up H. 4140, a bill requiring truth in sentencing, which, among other things, abolishes parole and requires persons convicted a third time of a violent crime to be sentenced to life imprisonment. However, because several members placed objections to the bill, H. 4140 was then placed on the House Contested Calendar.

On Wednesday, the House gave third reading to H. 3505, a bill increasing the penalties for perjury, and to S. 488, a proposed constitutional amendment to allow the General Assembly by law to provide for the age and qualifications of coroners. The House on Thursday gave approval to H. 4473, a bill prohibiting an offender incarcerated for any criminal sexual conduct which is not considered a violent crime from being released back into the community where he committed the crime under work release. (Current law already prohibits persons convicted of any violent crimes from being released back into the community where they committed the offense under work release.)

This past week also marked the third week of debate on H. 3267, the Woman's Right to Know Act, a bill requiring a waiting period and the provision of certain information before a woman may obtain an abortion. The House spent extensive time Wednesday and Thursday debating the measure, with proponents claiming that provision of information is needed so that women may make informed choices with regard to abortion. Opponents, however, claimed that adoption of the bill would further hinder a woman's right to obtain an abortion. An attempt to invoke cloture on the bill was narrowly defeated on Thursday. The House also rejected several amendments offered to the bill, but additional amendments remain to be considered when the House reconvenes this week.

## Bills Introduced

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The following bills were introduced in the House last week. Not all bills introduced in the House are featured here. The bill summaries are arranged according to the standing committee to which the legislation was referred.

### Education and Public Works

Improvements Near Publicly-Owned Airports Receiving State Funds Require Permission of Airport's Governing Body (H. 4709, Rep. Phillips). This bill prohibits anyone from making improvements that may represent a hazard to aviation on land located within 5 miles of the perimeter of a publicly-owned airport receiving any state funds, unless permission to make the improvement has been obtained from the governing body charged by law with operating the airport. The governing body must consult with the Department of Commerce's Division of Aeronautics for advice in determining those improvements which constitute a hazard to aviation and must deny construction permission for any improvement constituting such a hazard. Anyone aggrieved by the action of the governing body may appeal to the administrative law judge division. If adopted, these provisions would take effect on the first day of the third month following the governor's approval and would apply to improvements constructed on or after that date.

### Judiciary

Early Voting by Personal Appearance (H. 4683, Rep. Hodges). This bill allows a person to vote early in statewide general elections and their nominating primaries by personal appearance at his county board of registration or, if one exists, at an extension office of the board. The office of the board and its extension office would serve as the only early voting precincts for the county. Notice of the time and place for early voting by personal appearance must be published in a newspaper of general circulation in the county. The period for early voting by personal appearance would begin on the 20th day before election day and would continue through 5 pm of the day immediately prior to election day. In a runoff election, early voting by personal appearance begins on the 10th day before the runoff. This



## **Legislative Update, February 15, 1994**

voting must be conducted on weekdays, during the hours the county board of registration is regularly open for business, and also on the last 2 Saturdays before the statewide election day or their nominating primaries between 9 am and 5 pm. If the date prescribed for beginning early voting is a Sunday or state holiday, then the voting period begins on the next regular business day. If it is not possible to begin this early voting on a prescribed date because of the date for which an election is ordered, then the period must begin on the earliest date practicable after the prescribed date.

**Candidate May Protest Election Based on Evidence Discovered After the Election** (H. 4686, Rep. Hodges). This bill allows a person to protest to the county board of canvassers an election in which he is a candidate when the protest is based in whole or in part on evidence discovered after the election. Evidence may include, but is not limited to, after-discovered evidence of persons who have voted in a precinct or for a district office other than the one in which by law they are entitled to vote.

**Absentee Voting** (H. 4687, Rep. Hodges). This bill allows any registered voter to cast an absentee ballot. Under current law, a person may vote by absentee ballot only under special circumstances (e.g, service in armed forces, jury duty, etc.). The bill also permits members of the armed forces, among others, to apply for an absentee ballot using a federal form (Standard Form 76). The bill deletes provisions pertaining to county party committees being responsible for furnishing absentee ballots in primaries and being required to tabulate primary ballots cast at an absentee voting precinct. Also deleted are provisions pertaining to duties and expenses of political parties in conducting absentee voting in primaries. If adopted, these provisions would apply to elections conducted after June of 1994.

**Revision or Addition of Article in Constitution May Be Proposed as a Single Amendment** (H. 4688, Rep. Sheheen). This joint resolution seeks to amend the Constitution to provide that in any general election, and not just for the 1990 general election, revision of an entire article in or the addition of a new article to the State Constitution may be proposed as a single amendment, with only 1 question being required to be submitted to the voters.

**Constitutional Revisions to South Carolina's Legislative Department** (H. 4689, Rep. Sheheen). This joint resolution seeks to amend the Constitution so as to revise provisions pertaining to the election and operation of the General Assembly. Under these provisions, members of the General Assembly must be elected from single-member election districts, and reapportionment of the General Assembly is required every 10 years, using figures from the decennial U.S. Census. Age requirements for service in the General Assembly (currently 21 in the House and 25 in the Senate) apply at the time a term of office begins. Additionally, members must receive annual salary, mileage and subsistence, and other allowances as may be prescribed by law. Additional allowances may be provided for special sessions of the General Assembly, but no General Assembly may increase the salary of its own members. Neither the House or Senate is authorized to judge those qualifications of their members



## Legislative Update, February 15, 1994

which are set by the Constitution. Members may be elected at special elections to fill unexpired terms, and the filling of any vacancy where the term remaining is less than 1 year may be provided by law.

This constitutional amendment also would allow the House and the Senate to provide by rule for second reading of a bill or joint resolution "viva voice" or by distribution of printed copies of the bill to each member. When elections are held by the General Assembly or by either chamber, members must vote by roll call except upon unanimous consent to dispense with the roll call. Proceedings of each chamber must be open to the public unless two-thirds (2/3) of members present in either the House or the Senate vote to hold a closed session. Immunity from civil process currently given to members of the General Assembly during session would be revised so as to exclude such immunity from being given for a period of 10 days previous to the sitting and 10 days after the adjournment of the General Assembly. The General Assembly must provide for codification of the State's laws and keeping the laws up to date.

This constitutional amendment also would delete obsolete provisions prohibiting interracial marriage.

**Local Planning Commissions** (H. 4707, Rep. Harrison). This bill updates and consolidates several laws pertaining to planning by local governments. Under these provisions, a consolidated political subdivision may create a consolidated government planning commission, and the definition of "local planning commission" is expanded to include consolidated government planning commissions. An agreement adding unincorporated areas to municipal jurisdiction for planning purposes must be formally approved and executed by the municipal and county councils involved. Membership of a joint city-county planning commission must be proportional to the population inside and outside the corporate limits of the municipalities within the commission's area of jurisdiction. Among other provisions, the bill allows a governing authority, in establishing zoning districts, to require off street parking and loading and also allows subdivision regulations to further provide for reservation and dedication of land for public recreational purposes or for payment of cash contributions earmarked for such purposes in lieu of it.

**Construction, Maintenance and Repair of Bridges, Highways and Roads of Emergency Nature Exempt from Procurement Code** (H. 4712, Rep. McLeod). This bill provides that the current exemption from the State Procurement Code granted to the Department of Transportation for construction, maintenance and repair of bridges, highways and roads applies only if the construction, maintenance and repair is of an emergency nature.

**Revised Requirements for Resigning Position in General Assembly Upon Seeking an Office Elected by that Body** (H. 4713, Rep. Harrison). This bill deletes provisions which require a member of the General Assembly to be out of that office 4 years before being eligible for election as an administrative law judge or public service commissioner. In place of those provisions, this bill requires a member of the General Assembly who seeks an

## Legislative Update, February 15, 1994

office elected by that body to either resign his seat or withdraw his application for the office within 24 hours of the publication of the screening committee report in the House Journal or Senate Journal, whichever is earlier. A member who fails to resign within that time period is deemed to have withdrawn his application for the office. The bill also prohibits a member of the General Assembly from soliciting the vote of another member for the office sought during the period between notification to the candidate of the screening committee report and his decision to either seek the office or remain in the General Assembly.

**Homicide by Child Abuse** (H. 4722, Rep. Wilkins). This bill revises the elements of the crime of homicide by child abuse, to provide that the crime also includes circumstances manifesting a cruel, malicious, brutal or heinous indifference to human life. Under current law, the crime includes circumstances manifesting an "extreme indifference" to human life. The bill also provides that a child's behavior, such as crying, does not constitute legal provocation to commit the crime, and that neither voluntary nor involuntary manslaughter is a lesser included offense of homicide by child abuse.

**Shaken Baby Syndrome** (H. 4723, Rep. Wilkins). This bill includes a definition for "shaken baby syndrome" in the State's Children's Code. The bill defines this syndrome as "the violent shaking, throwing or twirling of an infant or child causing massive traumatic intracranial and intraocular bleeding" and further provides that the syndrome "often results in brain damage and mental retardation."

**Increased Penalties for Unlawful Use of Aromatic Hydrocarbons** (H. 4724, Rep. Wilkins). Under current law, a person convicted of unlawful use of aromatic hydrocarbons must be fined not more than \$100 or imprisoned not more than 30 days. This bill increases the penalties for this crime, with the penalty depending on the number of times the crime is committed, as listed below:

**First Offense**: Fine of not more than \$100 or imprisonment not exceeding 30 days. Additionally, the court, upon approval of the solicitor, may require the offender to successfully complete a drug treatment and rehabilitation program;

**Second Offense**: Fine of not more than \$500 or imprisonment not exceeding 60 days, or both;

**Third Offense**: Fine of not more than \$1,000, or imprisonment not exceeding 6 months, or both;

**Fourth or Subsequent Offense**: Fine of not more than \$2,000, or imprisonment not exceeding 4 years, or both.

The bill also provides that in sentencing a person for this crime, the judge may consider aggravating circumstances including but not limited to an adult's use of these substances in the presence of a minor.

**State Income Tax Laws Must Be Revised if State Income Tax Revenue Increases Solely Because of Laws Enacted to Conform State Income Tax With Federal Income Tax Laws** (S. 33, Sen. Passailaigue). This joint resolution



## Legislative Update, February 15, 1994

seeks to amend the Constitution to provide that if laws enacted to conform the state income tax to federal income tax laws result in a net increase in state income tax revenues solely because of the conforming legislation, then the General Assembly must revise the state's income tax laws so as to eliminate that increase.

**Advance Notice Required When Parent Intends to Relocate Permanent Residence of a Child Outside South Carolina** (S. 139, Sen. Rose). This bill requires the court, upon the request of either party in a child custody case, to include a requirement that advance written notice be given to the other party or parties by a party who intends to relocate the permanent residence of a child outside South Carolina. The court must determine the length of time for this advance notice. However, the court must not mandate this notice if it determines that there is sufficient reason not to require the notice or that it is in the best interests of the child not to require such notice.

**Factors a Court May Consider as Constituting Substantial Change of Circumstances for Changing Child Custody** (S. 312, Sen. McConnell). This bill lists factors a court may consider as constituting a substantial change of circumstances for changing child custody. Under this bill, factors constituting a substantial change in circumstances are the following: (1) a pattern of intentional withholding of visitation of a child from the other parent without just cause; (2) abuse or neglect by the custodial parent; (3) criminal conviction or incarceration of the custodial parent; (4) the remarriage of either parent; (5) abuse of drugs or alcohol by the custodial parent; (6) change in the age, maturity or unique needs of the child; (7) a disabling condition of the custodial parent which severely impairs the parent's ability to attend to the child's basic needs; (8) relocation of residence by the custodial parent of significant distance; and (9) any other circumstances which affect the best interests and welfare of the minor child.

**Child Support Proceedings** (S. 338, Sen. McConnell). This bill provides that in any proceeding for the award of child support, there must be a rebuttable presumption that the amount of the award required by the child support guidelines is the correct amount to be awarded. Findings which rebut the guidelines must state the amount of support that would have been required under the guidelines and must include a justification of why the order varies from the guidelines. Application of these guidelines to an existing court order, in and of itself, is considered a change of circumstances for the modification of that existing order in a certain case (Title 4-D case) under the Social Security Act. The bill also lists factors the court may consider as possible reasons for deviation from the guidelines or may use in determining whether a change in circumstances has occurred which would require modification of an existing order. These factors include, among others, educational expenses for the child or children or the spouse; child-related unreimbursed medical expenses; significant available income of the child or children; or substantial disparity in income between the earnings of a non-custodial and the custodial parent's income.



Legislative Update, February 15, 1994

Collisions Involving a Vehicle of a Particular Law Enforcement Agency Must Be Investigated by Another Agency (S. 436, Sen. Richter). This bill provides that when a motorcycle or motor vehicle of a law enforcement agency is involved in a traffic collision, the investigation of the collision must be performed by another (i.e., independent) law enforcement agency. Under these provisions, the State Highway Patrol would investigate all collisions involving vehicles of other law enforcement agencies, while collisions involving vehicles of the State Highway Patrol would be investigated by the sheriff of the county where the collision occurred. The collisions must be investigated whether or not another motor vehicle or motorcycle is involved in the collision. Upon conclusion of the investigation, the independent law enforcement agency must file a report with findings as to whether the agency's motor vehicle or motorcycle was operated within statutory and regulatory guidelines.

Housing Authority Commissioners Deemed Owners of Housing Authority Property for Matters Pertaining to Crimes Against the Property (S. 771, Sen. Hayes). This bill provides that members of the board of commissioners of each state, county or municipal housing authority, in their official capacity, are deemed to be the owners and possessors of the housing authority property under their respective jurisdictions for purposes of prosecuting persons accused of trespassing on or committing damage to housing authority property.

Conditions Under Which Family Court May Grant to Grandparents Child Visitation Periods (S. 872, Sen. Moore). This bill lists conditions under which the Family Court may order periods of visitation for grandparents of a child. Under these provisions, grandparent visitation may be ordered when either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats (regardless of the existence of a court order or agreement), and upon a written finding that the visitation rights would be in the best interests of the child and would not interfere with the parent/child relationship. In determining whether to order visitation for the grandparents, the court must consider the nature of the relationship between the child and his grandparents prior to the filing of the petition or complaint.

Increased Penalties for Stalking (S. 897, Sen. Reese). This bill increases the penalties for persons convicted of stalking. Under these provisions, a person convicted of stalking when there is a temporary restraining order and/or injunction prohibiting such behavior against the same party must be imprisoned not more than 3 years, fined not more than \$5,000, or both. Currently the penalties for stalking in this circumstance are imprisonment not exceeding 2 years, a fine not exceeding \$1,000, or both. The bill also makes it a felony, as currently opposed to a misdemeanor, to commit stalking within 7 years of a prior stalking conviction against the same victim and involving an act or credible threat of violence, and toughens the penalties for persons convicted of this felony by increasing the maximum imprisonment from 3 to 5 years and the maximum fine from \$2,000 to \$10,000.



## Legislative Update, February 15, 1994

Counties May Not Levy Business License Fees or Taxes on Insurance Companies (S. 907, Sen. Passailaigue). This bill prohibits a county from levying a business license fee or tax on an insurance company.

Defendants May Waive Presentence Investigations (S. 953, Sen. Courtney). Current law requires the Department of Probation, Parole and Pardon to prepare a presentence investigation on offenders convicted of a crime with a maximum penalty of between 3 and 15 years and also allows a judge or solicitor in other cases to require such an investigation before sentencing. These reports contain information such as a social history of the offender and a recommendation about his suitability for community supervision under a probation program. This bill would allow the defendant to waive the presentence investigation in cases where he pleads guilty or nolo contendere, provided the waiver is made freely, voluntarily and on the record.

## Labor, Commerce and Industry

Applicability of Zoning Ordinances to Certain Homes Serving Handicapped Persons (H. 4693, Rep. Cromer). This bill provides that local zoning ordinances apply to a home serving 9 or fewer mentally or physically handicapped persons if the home is part of a rehabilitation or transitional living program for persons with prior criminal records and also provides that the State's Fair Housing Law does not apply to a person who is denied housing because he has a criminal record.

Credit Service and Loan Finance Charges May Not Exceed 35 Percent (H. 4685, Rep. Neal). Under these provisions, the credit service charge on a consumer credit sale, and the loan finance charge on a consumer loan other than a supervised loan, may not exceed 35 percent.

Accessibility of Public Buildings for Persons with Disabilities (H. 4708, Rep. J. Wilder). This bill adopts the requirements for accessibility for people with physical disabilities, contained in the Standard Building Code, as the minimum standards for compliance with State law governing the construction and alteration of public buildings for access by handicapped persons. The bill also increases from 6 to 9 the number of members of the South Carolina Board for Barrier-Free Design and provides that 6 of the members must be appointed by the governor, while the director of the Department of Labor, Licensing and Regulation must serve as an ex-officio member of the Board. This board must be administered by the Department of Labor, Licensing and Regulation, which is responsible for providing administrative services, office space and other facilities as may be required by the board to perform its functions.

The bill also provides that in areas of the State where counties and municipalities have adopted certain building codes, the board may delegate enforcement authority of these provisions to the building official to whom the board must provide oversight and assistance. In jurisdictions where the board has not delegated its authority, however, the Department of Labor,

## Legislative Update, February 15, 1994

Licensing and Regulation must enforce these provisions in the particular county or municipality. Additionally, a person may seek injunctive relief to correct a construction deficiency which is in violation of these provisions, or a person who is injured, denied access to public buildings or facilities, or otherwise deprived of rights in violation of these provisions may bring suit in a court of common pleas.

**Expansion of Membership of Advisory Committee for Continuing Insurance Education Requirements** (H. 4711, Rep. Harris). This bill expands the membership of the Insurance Commissioner's advisory committee for continuing insurance education courses to include a representative from the South Carolina Association of Health Underwriters.

**Telephone Cooperative Act** (H. 4718, Rep. Martin). This bill provides for the incorporation, powers, operations and other activities of telephone cooperatives. These cooperatives are corporations which either have been or currently are financed in part by the Department of Agriculture for the purposes of owning or operating equipment and facilities to transmit intelligence (e.g., telephone service, cable television) through a communication service system. The bill provides that telephone cooperatives operating under these provisions are subject to the jurisdiction of the Public Service Commission and to the State's tax laws for other cooperatives.

Five or more natural persons or two or more telephone cooperatives may organize a telephone cooperative upon filing articles of incorporation with the Secretary of State. These telephone cooperatives have the same general powers as are granted to private corporations under state law and also have a number of other powers, including, among others, the construction, maintenance and operation of lines along and across public thoroughfares; borrowing money and otherwise contracting indebtedness; and the power of eminent domain. The original bylaws of a telephone cooperative must be adopted by its board of directors, but thereafter must be adopted, amended or repealed in accordance with provisions of the bylaws. The bill also provides a procedure for the cooperative to sell its assets.

A person who is not an incorporator may not become a member of the telephone cooperative unless that person agrees to use telephone service furnished by the cooperative when such telephone service is available through its facilities. The bylaws of the cooperative may provide for a number of matters, including, among others, the manner of calling and conducting its meetings, the rights of members to vote by proxy, and the manner by which members may withdraw or transfer shares. The bylaws must provide for the distribution of excess revenue to its members. Each cooperative member is entitled to vote on each matter submitted to a vote at a meeting, and unless prohibited by the bylaws or other provisions, voting may be by proxy. No member of a cooperative is liable or responsible for any debts of the telephone cooperative.

Business affairs of a telephone cooperative must be managed by a board of at least 3 directors, each of whom must be a member of the telephone



## Legislative Update, February 15, 1994

cooperative or of another cooperative which is a member of the telephone cooperative. The bylaws must prescribe the number of directors, their qualifications, the manner of holding board meetings, and the filling of board vacancies. The bill lists the procedure by which, under the bylaws, directors may be removed from office and successors elected and provides that directors are immune from suits arising from the conduct of affairs of the telephone cooperative except if the conduct amounts to wilful, wanton or gross negligence. This immunity granted to directors, however, must not be construed as granting immunity to the telephone cooperative. The bill also lists general standards by which directors must discharge their duties. The bylaws may provide that the service area of the telephone cooperative must be divided into two or more districts and that one or more of the members be elected from each district to serve as director. A majority of the board of directors constitutes a quorum, unless otherwise specified in the bylaws.

The bill lists requirements by which a telephone cooperative must abide in amending its articles of incorporation and also lists requirements for the consolidation and merger of telephone cooperatives, along with the merger of a telephone cooperative into a cooperative which is not another telephone cooperative. Additionally, a telephone cooperative, whether or not it has commenced business, may dissolve voluntarily as permitted under these provisions. Any corporation organized under State law for the purpose of providing communications and informational services in rural areas may be converted into a telephone cooperative and become subject to these provisions.

## Medical, Military, Public and Municipal Affairs

Deductions from Inmates' Accounts for Medical Treatment and Other Activities (H. 4692, Rep. Cromer). This bill allows for deductions from inmates' accounts to repay costs of various activities. Under these provisions, the officer in charge of a detention facility (municipal or county jail or state correctional facility) is allowed to establish by rules criteria for reasonable deductions from inmates' accounts. These deductions would be used to repay the costs of (1) public property wilfully damaged or destroyed by the inmate during incarceration; (2) medical treatment for injuries inflicted by the inmate on himself or others; (3) searching for and apprehending the inmate when he escapes or attempts to escape (with costs limited to "extraordinary costs" incurred as a consequence of the escape); or (4) quelling a riot or other disturbance in which the inmate is unlawfully involved. Deductions also are authorized for costs paid by a municipality or county for medical treatment requested by the inmate, provided that the deduction does not exceed \$10 for each treatment received by the inmate at his request. No deduction may be made if the balance of the inmate's account is \$10 or less, and the deduction would not apply to medical costs incurred as a result of injuries sustained by an inmate or other medically necessary treatment for which the inmate is determined not to be responsible.

## Legislative Update, February 15, 1994

The bill provides that all sums collected for medical treatment must be reimbursed to the inmate if he is acquitted or otherwise exonerated of all charges for which he was being held. Additionally, the bill requires the detention facility to initiate an action for collection of recovery of medical costs incurred pursuant to these provisions against an inmate upon his release or his estate if he was executed or died while in the custody of the facility.

Term Limits for Members of County Boards of Disabilities and Special Needs (H. 4697, Rep. Gamble). This bill prohibits a member of a County Board of Disabilities and Special Needs from serving more than 2 consecutive terms.

Renewal of Licenses of Embalmers and Funeral Directors (H. 4702, Rep. J. Brown). This bill requires the State Board of Funeral Service to renew the lapsed license of an embalmer or funeral director if the person (1) has previously held a valid license subject to the renewal which has not been suspended or revoked; (2) has not been convicted of a violent crime, a felony, or a crime of moral turpitude; (3) pays a fee of \$200 for each license and pays the current year license fee; (4) completes the required continued education hours for the previous and current license years; and (5) passes a written examination administered by the board pertaining to funeral directing and embalming.

Circumcision or Excising of Certain Anatomical Parts of Female Under Age 18 Prohibited (H. 4710, Rep. Snow). This bill prohibits anyone from knowingly circumcising, excising or infibulating the labia majora, labia minora or clitoris of a female under age 18. A person violating these provisions is guilty of a felony and upon conviction must be fined not more than \$5,000, or imprisoned not more than 5 years, or both. Each violation would constitute a separate offense. This prohibition would not apply to an operation performed by a lawfully licensed or permitted person if the operation is (1) necessary to the health of the person on whom it is performed or (2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth. The bill provides that any belief that the operation is necessary as a matter of custom or ritual is not to be considered in performing this operation for health reasons.

The bill also prohibits anyone from denying medical care or services or otherwise discriminating against a person in the provision of medical care or services who has undergone or sought female circumcision, excision or infibulation. A person violating these provisions is guilty of a misdemeanor and upon conviction must be fined not more than \$1,000, or imprisoned not more than 1 year, or both, with each violation constituting a separate offense.



## Legislative Update, February 15, 1994

### Ways and Means

**Income Tax Credit for Property Tax Relief Act** (H. 4684, Rep. Scott). This bill allows households earning less than \$25,000 a year and who are eligible to claim a homestead exemption to claim a state income tax credit for a percentage of property taxes accrued in the preceding calendar year. Only one person, or claimant, per household may file for the credit in a year, and the amount of the credit may not exceed \$250. If the allowable amount of the claim exceeds the income taxes due on the income, then the amount of the claim not used to offset income taxes must be paid to the claimant. The amount of the credit the claimant may claim is determined as listed below:

Gross Household <u>Income</u>	Taxpayer May Obtain Credit for Property Tax Paid In Excess of This <u>Percentage of Income</u>
\$0-----9,999	1 Percent
\$10,000-14,999	1.5 Percent
\$15,000-19,999	2 Percent
\$20,000-24,999	2.25 Percent

A claim must be disallowed if the Department of Revenue and Taxation finds that the claimant received title to his homestead primarily for the purpose of receiving this credit. If these provisions are adopted, they would apply for property tax years beginning in 1995.

**Tax Credit for Utilities Which Convert Overhead Electric Lines to Underground Service** (H. 4696, Rep. J. Bailey). This bill allows a utility which replaces overhead electric transmission or distribution lines with underground service or which installs new electric underground service to claim a tax credit against any corporate license fee or corporate income tax due. Expenses qualifying as underground service project costs are (1) costs incurred in the engineering design, conversion, and removal of these lines; (2) acquisition costs (land purchases, etc.); and (3) all other direct costs for improving existing or building new underground service projects. The amount of the credit is equal to 25 percent of the total qualifying underground service project costs as listed above, and the credit may be claimed for the taxable year when any underground service project is placed in service. The bill also provides that to the extent this credit applies to the cost of certain property, the depreciable basis of the property for State income tax purposes must be reduced by the amount of the credit claimed with respect to that property.

**Interest Earned on State Highway Fund Must Be Credited to the Fund** (H. 4701, Rep. Stille). This bill requires that interest earned by the State

## Legislative Update, February 15, 1994

Highway Fund must be credited to that fund, while interest earned by South Carolina's Federal Aid Highway Fund must be credited to this federal fund.

**Increased Costs for Obtaining Service Credit** (H. 4721, Rep. Kirsh). This bill increases the costs of establishing service credit under the South Carolina Retirement System. The bill increases from a minimum of 4 percent to a minimum of 6 percent of annual compensation or the average of the 3 highest consecutive fiscal years of salary (whichever is higher) the cost of establishing service credit when a member originally chose not to join the system. The cost of establishing time for maternity leave increases from a minimum of 8 percent to a minimum of 12 percent of annual salary or the average of the 3 highest consecutive fiscal years of salary (whichever is higher). A schedule of rates is provided for persons with at least 25 years of creditable service in the State's several retirement systems who wish to purchase up to 5 years of creditable service; under this schedule, the amount required to purchase additional service credit is multiplied by the higher of either the member's current salary or the highest fiscal year salary in his career by a certain percentage (as listed below) and then multiplied by the number of years credited. Periods of less than 1 year are prorated. The percentage of salary to calculate the payment allowed is as follows:

<u>Years to be Credited</u>	<u>Percentage of Salary</u>
1 year or less	58 percent
Over 1 but not more than 2 years	54 percent for each year
Over 2 but not more than 3 years	50 percent for each year
Over 3 but not more than 4 years	46 percent for each year
Over 4 years	42 percent for each year

With regard to establishing service credit under the South Carolina Police Officer's Retirement System, the bill increases from a minimum of 10 percent to a minimum of 12 percent of the higher of a person's annual compensation or the average of the 3 highest consecutive fiscal years of compensation the cost of establishing pregnancy leave and federal civilian service. The bill increases from 10 to 12 percent of annual salary the cost of establishing additional creditable service for a member of the South Carolina Police Officers Retirement System with prior nonpolice service not credited under another state retirement system and increases the contribution to establish credit for prior police service from \$16 to \$21 monthly for a



## Legislative Update, February 15, 1994

Class One Member and from 5 to 6.5 percent of monthly compensation for a Class Two Member. Additionally, the cost of establishing out-of-state service under the Police Officers Retirement System is 12 percent of the greater of the current salary or the average of salary received in the 3 highest salary consecutive fiscal years.

Creation of State Privatization Policy Board (S. 42, Sen. Passailaigue). This bill creates a Privatization Policy Board. This board is charged with reviewing the feasibility of privatizing various services currently provided by state agencies and to recommend privatization upon demonstration that such action would provide government services in a more cost efficient and effective manner.

The board would be composed of the chairman of the State Reorganization Commission or his designee, along with 10 members. Of the 10 members, the President of the Senate and Speaker of the House would each appoint 2 members. The governor would appoint 6 members, of whom 2 must represent the private business community; 2 must represent educational groups; and 2 must represent public employees. Board members would serve staggered 2-year terms and would be allowed the usual mileage, per diem and subsistence provided by law for members of other state boards, commissions and agencies. The bill provides for the board's organization and requires the board to meet at least once a year and at the call of the chairman.

Revenues from Gasoline and Motor Fuel Taxes Must Be Used for Purposes Stated When Tax Was Originally Imposed (H. 4719, Rep. Felder). This bill prohibits revenues from gasoline and motor fuel taxes from being used for any purposes other than those provided in the original imposition of the tax, unless two-thirds of the entire membership of both the House and Senate approve separate legislation authorizing use of these revenues for other purposes. This prohibition may not be repealed or amended unless, again by a two-thirds vote of both the House and Senate, separate legislation enacted specifically for this purpose is adopted.

Payment of Property Taxes by Credit Card (S. 628, Sen. Rankin). This bill allows the payment of property taxes by credit card. Payment by credit card is authorized if the governing body of a county chooses to allow this procedure or, in the case of a municipality or other political subdivision which collects its own property taxes, upon the approval of that entity's governing body. The bill prohibits a political subdivision which accepts these credit card payments from discounting property taxes to pay fees associated with acceptance of credit card payments. The bill also provides that no more than five dollars (\$5.00) in coins may be used to make property tax payments unless the receiving official decided to accept more than this amount.

Legislative Update, February 15, 1994

Without Reference

**Appropriations of Fiscal Year 1992-1993 Surplus General Fund Revenues** (H. 4691, House Ways and Means Committee). This bill, using funds from the 1992-1993 general fund surplus, appropriates \$30,000,000 for payment of state income tax refunds due taxpayers as a result of the settlement agreement of federal retirees' lawsuits (Bass, et al. v. South Carolina and Perri, et al. v. South Carolina) and appropriates \$4,716,158 to the State Budget and Control Board's Division of General Services for the upcoming State House renovation project. The bill also deletes a provision requiring the Tax Commission, when a taxpayer prevails in a lawsuit for a refund or abatement, to issue a refund to all similarly-situated taxpayers who have properly applied for a refund.

**Disparagement of Perishable Agricultural and Aquacultural Food Products Prohibited** (H. 4706, House Agriculture, Natural Resources and Environmental Affairs Committee). This bill prohibits a person from disparaging (spreading to the public false information which casts doubt on the safety of) perishable agricultural or aquacultural food products for public consumption. A producer of these products who suffers damages as a result of another person's disparagement may bring an action for damages and for other relief in a court of competent jurisdiction. The disparagement of these products with intent to harm the producer of the product makes the person disparaging the product liable for treble damages. An action under these provisions must be commenced within 3 years after the cause of action accrues. These provisions would apply to acts committed after June of 1994.

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